

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Service Rules for 1.7/2.1 GHz AWS Stations)	WT Docket 02-353
)	
Service Rules for Below 3 GHz AWS Stations)	WT Docket 04-356
)	
Below 3 GHz Spectrum for AWS/3G Stations)	ET Docket 00-258
)	
Modification of the ULS to Allow TV Pickup)	RM-11308
Stations and Remote Pickup Stations to Document)	
the Locations and Heights of Their Receive-Only)	
Sites)	
)	
Improving Public Safety Communications in the)	WT Docket 02-55
800 MHz Band)	
)	
Request by Globalstar, Inc. To Expand Its Ancillary)	RM-11339
Terrestrial Component (ATC) Authority to)	
Encompass Its Full Assigned Spectrum)	
)	
Review of the Spectrum Sharing Plan Among)	IB Docket 02-364
Non-Geostationary Satellite Orbit Mobile Satellite)	
Service (MSS) Systems in the 1.6/2.4 GHz Bands)	
(MSS ATC on Former TV BAS Channel A10))	
)	

To: The Commission

Reply to Opposition to Petition for Reconsideration

The Society of Broadcast Engineers, Incorporated (SBE), the national association of broadcast engineers and technical communications professionals, with more than 5,000 members world wide, hereby respectfully submits its Reply to the April 17, 2007, T-Mobile USA, Inc. ("T-Mobile") *Opposition To the Society of Broadcast Engineers Petition for Reconsideration* of the March 8, 2007, WT Docket 02-353 Order.

I. SBE Petition for Reconsideration Is Not Procedurally Deficient

1. T-Mobile argues that the April 4, 2007, SBE Petition for Reconsideration of the March 8, 2007, WT Docket 02-353, *et al*, Order is "procedurally deficient" because it was not timely filed.

SBE Reply to T-Mobile Opposition to SBE Petition for Reconsideration

SBE disagrees. To the contrary, the Petition for Reconsideration was timely filed and consistent with Part 1 of the FCC Rules governing Practice and Procedure.¹ The Order appeared on the Commission's March 9, 2007, *Daily Digest*. Further, it appears that the Order has yet to be published in the Federal Register, meaning that the thirty-day clock for a timely Petition for Reconsideration has not even started running.

2. The issue here is how the Commission has aggregated the rule making proceeding docket numbers. For that reason, the SBE Petition for Reconsideration cited several related docket and rule makings, and explicitly filed multiple copies of its Petition for Reconsideration to each of those proceedings, so there could be no question, this time, regarding the manner in which the Commission chose to aggregate, or not to aggregate, related rulemakings.

3. As was pointed out in the SBE Petition for Reconsideration, the September 24, 2004, WT Docket 04-356 Notice of Proposed Rulemaking (NPRM) aggregated the in-progress WT Docket 02-353 rulemaking (Service Rules for 1.7/2.1 GHz Advanced Wireless Service (AWS) Stations) into the new WT Docket 04-356 rulemaking (Service Rules for 1,915–1,920 MHz, 1,995–2,000 MHz, 2,020–2,025 MHz and 2,175–2,180 MHz AWS Stations). SBE filed timely comments and reply comments to the aggregated WT Docket 04-356 rulemaking. Yet, when the WT Docket 02-353 Order was issued on March 8, 2007, SBE was shocked to see no mention of its comments. Further, the WT Docket 02-353 Order was issued with a new set of docket numbers, namely ET Docket 00-258 (pertaining to Below-3 GHz Third-Generation Wireless Systems) and WT Docket 02-353, with no mention of WT Docket 04-356.

4. SBE submits that when the Commission chose to combine the WT Docket 02-353 rulemaking into the WT Docket 04-356 NPRM, it provided a new opportunity for all interested parties to file comments regarding AWS stations in all of the AWS bands, from 1.7 to 2.1 GHz. That is exactly what the SBE WT Docket 04-356, *et al*, filings did.

5. The SBE Petition for Reconsideration documented new facts, namely that 2.1 GHz AWS operations in Queens, New York, has now caused actual harmful interference to 2 GHz TV Broadcast Auxiliary Service (BAS) operations (namely, to the TV BAS Channel A7 (2,093–2,110 MHz) electronic news gathering (ENG) operations of Station WABC-TV, New York, NY). Thus, the SBE filing documented that AWS-into-BAS interference is no longer a theoretical threat, but actual documented interference.

¹ 47 C.F.R. § 1.429.

SBE Reply to T-Mobile Opposition to SBE Petition for Reconsideration

6. Finally, SBE notes that the relevant procedural FCC rule pertaining to a petition for reconsideration is governed under Section 1.429 of the FCC Rules and not Section 1.106(b)(1) as cited by T-Mobile. The latter section does not apply to petitions for reconsideration of a *rulemaking*; rather, it applies to petitions for reconsideration of *non-rulemaking* proceedings, such as applications.² Thus, it would appear that it is the T-Mobile Opposition that is "procedurally deficient," and not the SBE Petition for Reconsideration.

II. Summary

7. The April 4, 2007, SBE Petition for Reconsideration of the March 8, 2007, WT Docket 02-353 Order was not procedurally deficient, and should be considered by the Commission. To the contrary, it is the T-Mobile Opposition that is procedurally deficient, by citing an inapplicable FCC rule section.

Respectfully submitted,

Society of Broadcast Engineers, Inc.

/s/ Chriss Scherer, CPBE, CBNT
SBE President

/s/ Dane E. Ericksen, P.E., CSRTE, 8-VSB, CBNT
Chairman, SBE FCC Liaison Committee

/s/ Christopher D. Imlay, Esq.
General Counsel

April 26, 2007

Booth, Freret, Imlay & Tepper
14356 Cape May Road
Silver Spring, Maryland 20904
301/384-5525

² 47 C.F.R. § 1.106(a)(1).